

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

WILLIAM CRAIG,

Plaintiff,

v.

GREGORY S. MCMILLAN, and MIRANDA
MCCABE,

Defendants.

)
)
)
)
)
)
)
)
)
)

No. 3:23-CV-148-JRG-DCP

ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02.

Now before the Court is an Amended Motion to Stay Discovery Pending Resolution of Motion to Dismiss and/or Motion for Protective Order [Doc. 27]. Specifically, Circuit Court Judge Gregory S. McMillan (“Judge McMillan”) moves for a stay of discovery, or alternatively, a protective order, because he has filed a motion to dismiss based on the doctrine of absolute judicial immunity, along with other defenses. He states that until this threshold determination is made, discovery should not be permitted. Judge McMillan represents that “no party objects to this motion to stay” [Doc. 27 p. 1 (emphasis omitted)].

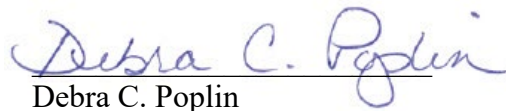
Generally, when a party raises immunity as a defense, “a stay is mandated . . . unless there is discovery needed to frame the immunity issue.” *Brown v. Timmerman-Cooper*, No. 2:10-CV-283, 2012 WL 113528, at *4 (S.D. Ohio Jan. 13, 2012); *see also M.F. v. Perry Cnty. Child. & Fam. Servs.*, No. 2:15-CV-2731, 2016 WL 7403825, at *2 (S.D. Ohio Dec. 22, 2016) (“The Sixth Circuit has explained that because judicial immunity is designed to protect judges ‘from the burdens of discovery’ until the applicability of immunity is resolved, ‘the court is further obligated,

upon application, not only to refrain from proceeding to trial but to stay discovery until that issue is decided.’”) (quoting *Kennedy v. City of Cleveland*, 797 F.2d 297, 299 (6th Cir. 1986)).

Given the guidance above, and because no party objects to the motion, the Court **GRANTS** the Amended Motion to Stay Discovery Pending Resolution of Motion to Dismiss and/or Protective Order [**Doc. 27**]. Discovery against Judge McMillian **SHALL** be stayed pending adjudication of his motion to dismiss [Doc. 15].

IT IS SO ORDERED.

ENTER:



Debra C. Poplin
United States Magistrate Judge